

SEPTEMBER 10, 2001

NORTH BERWICK WATER DISTRICT  
Request for Approval of Lease of Property to  
A Cell Tower Company

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## **I. SUMMARY OF ORDER**

We allow No. Berwick Water District (District) to lease a parcel of land (10,000 square feet) to Spectrum Resources Towers, L.P. (Spectrum) along with an easement across District land to access that parcel.

## **II. PROCEDURAL HISTORY**

On July 2, 2001, The District filed with the Commission its request for approval of its draft lease agreement with Spectrum. On August 16, 2001, the District filed a copy of the agreement with the Commission.

## **III. BACKGROUND**

The North Berwick Water District is organized under the laws of the State of Maine pursuant to Ch. 54, Private and Special Laws, 1981, and is a public utility authorized to serve and provide water services in the Town of North Berwick. The District owns land around its source of supply wells for the purpose of providing protection to the aquifer and its facilities.

Spectrum, a Delaware limited partnership, wants to lease 10,000 square feet of the District's land, along with an easement across District land to access it. Spectrum plans to erect a 190' lattice tower on the leased land. The tower will support a Verizon antenna along with antennas for up to 5 future wireless carriers.

The District and Spectrum have entered into an agreement for the lease of 10,000 square feet of the District's wellhead protection land along with an easement for access to the tower site. The District's compensation for the lease will be \$800 per month or \$9,600 per year. In addition, the District will maintain the access road at Spectrum expense. The access road will be controlled by a gate and Spectrum has agreed to not use hazardous substances on the property in violation of any applicable law. This will enable the District to provide maximum protection to the aquifer and its facilities while deriving income from the land. The initial term of the agreement is five years. The agreement will be automatically renewed for five (5), five-year renewal

terms unless Spectrum provides the District with 90-days notice of its intention not to renew prior to the expiration of any term.

#### IV. CONCLUSION

The property being used in this transaction is necessary and useful to the District in providing safe, reasonable and adequate water services. As such, the District requires our approval before it may lease or otherwise encumber the property. (35A MRSA § 1101) We find that this leasing arrangement is reasonable as it maximizes the value the District can obtain from property it must maintain to provide service. This will benefit the District's ratepayers.

The Commission will approve the joint petition because it appears to be in the best interest of the ratepayers of the District. As a condition of approval of the lease, we require the District to include as an addendum in each future annual report, an itemized list of its expenses and income associated with this lease during the calendar year. Nothing in this Order shall limit or restrict the powers of the Commission in determining and fixing any rate, fare, toll, or charge of the District.

Accordingly, we

#### O R D E R

1. That the North Berwick Water District lease agreement with Spectrum Resources Towers, L.P. is hereby approved.
2. That the North Berwick Water District shall include as part of its Annual Report to the Commission a description of the transaction and an itemized list of all income and expenses associated with the transaction during that calendar year.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Welch  
Nugent  
Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.